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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/491,639	01/27/00	BLUCHER	MWPP-0002

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EXAMINER
CASTELLANO, S

ART UNIT
3727

PAPER NUMBER

DATE MAILED: 04/25/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application N

09/491,639

Applicant(s)

Blucher

Examiner

Castellano

Group Art Unit

3727

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 3/19/01
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-27 is/are pending in the application.
- Of the above claim(s) 6, 7, 13-27 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-5, 8-12 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

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1. Claims 6, 7 and 13-27 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention and specie, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 5 and 8.

2. Applicant's election with traverse of the combination of the pan and pan liner in Paper No. 5 is acknowledged. The traversal is on the ground(s) that the field of search is likely to be the same. This is not found persuasive because it has already been established that the inventions have different fields of search. Applicant additionally traverses the election of species requirement in Paper No. 8. The traversal is on the ground(s) that claim 1 is generic. One generic claim doesn't preclude the election of specie requirement

The requirements are still deemed proper and are therefore made FINAL.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 8, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Ibsch, Jr. (Ibsch).

Ibsch discloses a pan liner system comprising a pan (10) with a bottom panel and a sidewall extending upwardly from the bottom panel and a pan liner (either the bottom layer of the plurality of laminations 14 or all of the laminations 14) having a contoured fit disposed within the

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pan to cover an interior surface of the pan, the pan liner including a contoured bottom edge (the circular edge that circumscribes the flat bottom), a flexible sidewall extending upwardly from the bottom end (16), an open top end extending upwardly beyond the top edge of the pan's sidewall and being folded over the pan's top edge (17, 18), the pan liner not having dog ears.

5. Claims 1 and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferlanti.

Ferlanti discloses a pan liner system comprising a pan (12) with a bottom panel and a sidewall extending upwardly from the bottom panel and a pan liner (10) having a contoured fit disposed within the pan to cover an interior surface of the pan, the pan liner including a contoured bottom edge, a flexible sidewall extending upwardly from the bottom end, an open top end extending upwardly beyond the top edge of the pan's sidewall and being folded over the pan's top edge, the pan liner not having dog ears. **The pan liner (10) is made from a material comprising plastic and is made of metal with a polytetraflouroethylene (TEFLON) film (see col. 3, lines 26-33). Regardless of the unsuitability of some plastics as mentioned in column 1, it seems that Ferlanti is rather clear that plastic is quite suitable. Polytetraflouroethylene is neither fragile or likely to ignite.**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ibsch in view of Kugler.

Ibsch discloses the invention except for the contoured bottom edge doesn't have a flat bottom edge. Kugler teaches a contoured bottom edge having a flat bottom edge which is joined to two straight tapered edges having a predetermined angle with respect to the bottom edge of between 40 and 55 degrees. It would have been obvious to modify the shape of the Ibsch liner to have the flat bottom edge and two straight tapered edges in order to provide a contoured liner which is quick and easy to manufacture from a length of tubular sheet material while maintaining uniformity in shape.

7. Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferlanti in view of Kugler.

Ferlanti discloses the invention except for the contoured bottom edge doesn't have a flat bottom edge. Kugler teaches a contoured bottom edge having a flat bottom edge which is joined to two straight tapered edges having a predetermined angle with respect to the bottom edge of between 40 and 55 degrees. It would have been obvious to modify the shape of the Ferlanti liner to have the flat bottom edge and two straight tapered edges in order to provide a contoured liner which is quick and easy to manufacture from a length of tubular sheet material while maintaining uniformity in shape.

8. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ibsch in view of the M & Q Plastic Products Brochure (the M & Q brochure).

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Ibsch discloses the invention except for the liner isn't a high temperature plastic material. The M & Q brochure teaches a high temperature nylon resin material for bags used in food applications which can withstand temperatures of 400 degrees F. It would have been obvious to replace the liner of Ibsch with the high temperature nylon resin liner in order to save material cost and manufacturing cost related to forming a contoured liner.

9. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferlanti in view of the M & Q Plastic Products Brochure (the M & Q brochure).

Ferlanti discloses the invention except for the liner isn't a high temperature plastic material. The M & Q brochure teaches a high temperature nylon resin material for bags used in food applications which can withstand temperatures of 400 degrees F. It would have been obvious to replace the liner of Ferlanti with the high temperature nylon resin liner in order to save material cost and manufacturing cost related to forming a contoured liner.

10. Applicant's arguments filed 19 March 2001 have been fully considered but they are not persuasive. The material of Ferlanti comprises plastic.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703)305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into group 3720 will be promptly forwarded to the examiner.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is (703)-308-1035.


Stephen Castellano
Primary Examiner
Art Unit 3727

December 5, 2000